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EXAMINER

WRIGHT, BRYAN F

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,951	<b>Applicant(s)</b> KLEINHUIS ET AL.	
	<b>Examiner</b> BRYAN WRIGHT	<b>Art Unit</b> 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **FINAL ACTION**

1. This action is in response to amendment filed 12/16/2008.
2. Claims 1-14 (canceled). Claims 15-30 are new. Claims 15-30 are pending.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 28 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant's recital of a "**server arranged for**" is considered non-statutory subject matter on the basis it recites no link to a specific hardware component and the fact that well known in the art that "a server" is simply software code. Applicant is advised to amend claim 28 to incorporate a reciting linking the server to a specific hardware element (e.g. "server code operating on a computer, arranged to") or some form thereof.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 15-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robin (US Patent No. 5,638,446) in view of Levi et al (US Patent No. 6,804,778 and Levi hereinafter).

5. As to claim 15, Robin teaches a method for distributing software components, the method comprising the steps of:

deriving a first software component identifier (e.g., certificate) from a software component (i.e., ... teaches acquire a certificate which authenticates a file (e.g., software file [col., 3, lines 15-18]);

creating, by an integrity certificate originator and using the first software component identifier, (i.e., ... teaches would acquire a certificate which authenticates a file by first creating a hash of the file (e.g., software file) using a cryptographically strong deterministic algorithm [col. 3, lines 13-18]);

retrieving the software component through a client computer (i.e., ... teaches a user (e.g., client) retrieving the file (e.g., software component) [col. 3, lines 49-52]);

creating integrity test data by performing, on the software component (i.e., ... teaches checking the integrity of the file and the identity of the author [col. 3, lines 25-30]);

deriving, by the client computer, a second software component identifier from the software component (i.e. ... teaches a user (U) then computes the cryptographic hash of the file [col. 6, lines 10-13]);

retrieving the integrity certificate by the client computer and using the second software component identifier (i.e., ... teaches a user (U) retrieves a file and the certificate [col. 6, lines 5-10]);

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Robin does not expressly teach the claim limitation element of an integrity certificate having the integrity test data and an integrity test relating to at least one of the quality and the functionality of the software component and disclosing the integrity test data to a user by the client computer.

However, these features are well known in the art and would have been an obvious modification of the system disclosed by Robin as introduced by Levi. Levi discloses: an integrity certificate having the integrity test data and an integrity test relating to at least one of the quality and the functionality (e.g., issue of problematic behavior) of the software component (to provide the capability to verify for problematic behavior of downloaded software code [col. 16, lines 50-61]);

and disclosing the integrity test data to a user by the client computer (to provide capability to display verifiable and non-verifiable objects (e.g., downloaded code) to the user [col. 16, lines 61-65]).

Therefore, given the teachings of Levi, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Robin by employing the well known features of verifying problematic downloaded code as disclosed above by Levi, for which software distribution will be enhanced [col. 16, lines 61-65].

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6. As to claim 16, Robin teaches a method recited further comprising the step of registering, in a certificate register, the integrity certificate of the software component using the first software component identifier [col. 3, lines 13-18].

7. As to claim 17, Robin teaches a method where the integrity certificate retrieving step comprises the step of accessing of the certificate register (i.e., ... teaches the act of registering to obtain a certificate [col. 3, lines 10-20]).

8. As to claim 18, Robin teaches a method further comprising the step of verifying an identity of the integrity certificate originator (i.e., ... teaches checking the integrity of the file and the identity of the author [col. 3, lines 25-30]).

9. As to claim 20, Robin teaches a method further comprising the step of verifying the digital signature (i.e., ... teaches U then verifies that T's signature on the certificate is correct using T's public key [col. 6, lines 7-12]).

10. As to claim 21, Robin teaches a method further comprising the step of matching the integrity test data to a user's preferred requirements (col. 6, lines 10-15).

11. Claim 22, Robin teaches a method further comprising the step of retrieving the integrity certificate from the client compute (col. 6, lines 8-11).

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12. Claim 23, Robin teaches a method further comprising the step of retrieving the integrity certificate from a computer associated with a supplier of the software component (col. 3, lines 8-15).

13. Claim 24, Robin teaches a method further comprising the step of retrieving the integrity certificate from a computer associated with a trusted certificate originator (col. 3, lines 23-27).

14. As to claim 25, Robin teaches a method further comprising the step of mailing the integrity certificate, through email, to the client computer (col. 3, lines 55-60).

**15.** As to claim 26, Robiin teaches a method further comprising the step of determining the integrity test data using common criteria (CC) (i.e., ... teaches determining verification data (e.g. integrity test data) based on data common to originator [14 c, fig.1]).

16. As to claim 27, although the system of Robin shows substantial features of the claim invention, however Robin does not disclose:

A method where the integrity test data comprises a rating of the quality of the software component with respect to at least one of robustness, reliability, soundness and completeness.



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However, these features are well known in the art and would have been an obvious modification of the system disclosed by Robin as introduced by Levi. Levi discloses:

A method where the integrity test data comprises a rating of the quality of the software component with respect to at least one of robustness, reliability, soundness and completeness (to provide the capability to verify problematic behavior as part of a software integrity verification process [col. 16, lines 50-61]);

Therefore, given the teachings of Levi, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Robin by employing the well known features of verifying problematic downloaded code as disclosed above by Levi, for which software distribution will be enhanced [col. 16, lines 61-65].

17. As to claim 28, Robin teaches a server arranged for:

deriving (e.g., creating) a software component identifier from a software component (i.e., ...teaches a creating a hash of the file (e.g., software component identifier [col. 3, lines 15-21]));

creating, by a certificate originator, an integrity certificate having the integrity test data (i.e., ... teaches generating a certificate containing verification data [col. 5, lines 55-65]);

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labeling, by the integrity certificate originator, the integrity certificate with the software component identifier (i.e., ... teaches signing the certificate [col. 3, lines 20-25]),

allowing retrieval of the software component (e.g., downloading the file) by a client computer [col. 6, lines 5-10];

and allowing retrieval of the integrity certificate by the client computer using the software component identifier (col. 3, lines 23-27).

Robin does not teach the claim limitation element of creating integrity test data by performing an integrity test relating to at least one of the quality and functionality of the software component;

However, these features are well known in the art and would have been an obvious modification of the system disclosed by Robin as introduced by Levi. Levi discloses the claim limitation element of creating integrity test data by performing an integrity test relating to at least one of the quality and functionality (e.g., problematic behavior) of the software component (to provide the capability to verify and display to a user the verification of potential problematic behavior in downloaded software code [col. 16, lines 50-61]);

Therefore, given the teachings of Levi, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying

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Robin by employing the well known features of verifying problematic downloaded code as disclosed above by Levi, for which software distribution will be enhanced [col. 16, lines 61-65].

18. As to claim 29, Robin teaches a client computer arranged for:

retrieving a software component from a server (i.e., ... teaches secure distribution of the file is achieved when a user (hereinafter U) wants to access and download a file. ... teaches user (U) connects to the location of the file (i.e. A's server) [col. 6, lines 5-10]);

deriving a software component identifier from the software component (i.e., ... teaches would acquire a certificate which authenticates a file by first creating a hash of the file using a cryptographically strong deterministic algorithm [col. 3, lines 13-18]);

retrieving, using the software component identifier, an integrity certificate having integrity test data (i.e., ... teaches the act of retrieving a certificate for purpose checking file integrity [col. 3, lines 23-35]),

an integrity certificate having integrity test data (col. 5, lines 55-65);

Robin does not disclose the claim limitation element of disclosing the integrity test data to a user.

However, these features are well known in the art and would have been an obvious modification of the system disclosed by Robin as introduced by Levi. Levi discloses the

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claim limitation element of disclosing the integrity test data to a user (to provide capability to display the verifiable and non-verifiable nature of a problematic object (e.g., downloaded code) to the user [col. 16, lines 61-65]).

Therefore, given the teachings of Levi, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Robin by employing the well known feature of displaying to a user verification data as disclosed above by Levi, for which software distribution will be enhanced [col. 16, lines 61-65].

19. As to claim 30, Robin teaches a computer readable medium having computer executable instructions stored therein for instruction by a client computer which, when executed, cause the client computer to perform the steps of:

retrieving a software component from a server (i.e., ... teaches secure distribution of the file is achieved when a user (hereinafter U) wants to access and download a file. ... teaches user (U) connects to the location of the file (i.e. A's server) [col. 6, lines 5-10]);

deriving a software component identifier from the software component (i.e., ... teaches would acquire a certificate which authenticates a file by first creating a hash of the file using a cryptographically strong deterministic algorithm [col. 3, lines 13-18]);

retrieving, using the software component identifier, an integrity certificate having integrity test data (e.g., ... teaches retrieving a certificated for purpose of integrity checking [col. 3, lines 23-28]),

and disclosing the integrity test data to a user (i.e., ... teaches after generating the certificate, the certificate is sent A or store it in a publicly accessible location and notify A as to where it is stored [col. 5, lines 64-67]).

Robin does not teach the claim limitation element of the test data relating to at least one of the quality and functionality of the software component;

However, these features are well known in the art and would have been an obvious modification of the system disclosed by Robin as introduced by Levi. Levi discloses the claim limitation element of the test data relating to at least one of the quality and functionality (e.g., potential problematic behavior) of the software component (to provide the capability to detect the potential for problematic behavior in downloaded software code [col. 16, lines 50-61]);

Therefore, given the teachings of Levi, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Robin by employing the well known features of verifying problematic downloaded code as disclosed above by Levi, for which software distribution will be enhanced [col. 16, lines 61-65].

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20. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Robin in view of Levi as applied to claim 1 above, and further in view of Atkinson et al. (US Patent No.5,892,904 and Atkinson hereinafter).

21. As to claim 19, although the system of Robin in view of Levi illustrates substantial features of the claim invention, however both Robin and Levi does not disclose:

A method recited further comprising the step of adding a digital signature to the integrity certificate.

However, these features are well known in the art and would have been an obvious modification of the system disclosed by the combination of Robin and Levi as introduced by Atkinson. Atkinson discloses:

A method recited further comprising the step of adding a digital signature to the integrity certificate (to provide the capability to append a digital signature to a certificate [col. 2, lines 60-65]).

Therefore, given the teachings of Atkinson, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying the combination of Robin and Levi by employing the well known features of appending a digital signature a certificate disclosed above by Atkinson, for which software distribution will be enhanced [col. 2, lines 60-65].

### ***Response to Arguments***

Applicant's arguments with respect to claims 15-30 have been considered but are moot in view of the new ground(s) of rejection under the teaching of Robin, Levi and Atkinson. Applicant has cancelled claims 1-14 and added claims 15-30. Therefore, all remarks as so presented by applicant on 12/16/2008 in regards to claims 1-14 have not been considered and stands moot in view of the new rejection set forth in this Office Action under the teachings of Robin, Levi, and Atkinson.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### **Contact Information**



Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN WRIGHT whose telephone number is (571)270-3826. The examiner can normally be reached on 8:30 am - 5:30 pm Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AYAZ Sheikh can be reached on (571)272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRYAN WRIGHT/  
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